

STATE OF MICHIGAN  
COURT OF APPEALS

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PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

RAYMOND ALLEN,

Defendant-Appellant.

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UNPUBLISHED  
February 25, 2003

No. 238183  
Wayne Circuit Court  
LC No. 01-003644

Before: Kelly, P.J. and White and Hoekstra, JJ.

MEMORANDUM.

Following a bench trial, defendant was convicted of possession of less than twenty-five grams of cocaine, MCL 333.7403(2)(a)(v), and operating a vehicle while license suspended or revoked, MCL 257.904(3)(a) and (b), entered after a bench trial. He appeals as of right. We affirm. This appeal is being decided without oral argument pursuant to MCR 7.214(E).

Defendant sole issue on appeal is that the waiver of his right to a jury trial was not made knowingly and voluntarily. We disagree.

Prior to accepting a waiver of jury, a trial court must advise the defendant in open court of the constitutional right to trial by jury. The trial court must ascertain, by addressing the defendant directly, that the defendant understands the right to trial by jury, and that the defendant voluntarily chooses to waive that right and to be tried by the court. A verbatim record must be made of the waiver proceeding. MCR 6.402(B). We review a trial court's determination that a defendant validly waived his right to a jury trial for clear error. *People v Leonard*, 224 Mich App 569, 595; 569 NW2d 663 (1997).

Defendant stated that he wished to waive his right to a jury trial because his witnesses had not appeared. The trial court offered defendant various options, including proceeding with a jury trial on the charge of operating a vehicle with license suspended or revoked, for which no defense witnesses were required, while allowing the defense witnesses time to arrive at court, seeking a continuance, to which the prosecutor would not object, seeking assistance in securing his witnesses for trial, or proceeding with a bench trial. Defendant telephoned his witnesses and consulted with defense counsel, and ultimately decided to waive the jury. Defendant did not request a continuance or witness assistance. Defendant was fully informed of his options, and chose to waive the jury. The trial court addressed defendant directly, and ascertained that he understood that he had a right to a jury trial, that he was voluntarily choosing to waive that right,

and that he had not been pressured to waive that right. MCR 6.402(B). The record does not support defendant's contention that circumstances compelled him to proceed with a bench trial. The trial court did not clearly err in finding that defendant's waiver of his right to a jury trial was valid. *Leonard, supra*.

Affirmed.

/s/ Kirsten Frank Kelly  
/s/ Helene N. White  
/s/ Joel P. Hoekstra